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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,362	09/21/2000	Michael N. Grimbergen	2813.P1/USA/SILICON	9755
21861	7590	01/16/2004	EXAMINER	
JANAH & ASSOCIATES A PROFESSIONAL CORP 650 DELANCEY STREET SUITE 106 SAN FRANCISCO, CA 941072001			LUND, JEFFRIE ROBERT	
			ART UNIT	PAPER NUMBER
			1763	

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/667,362

Applicant(s)

GRIMBERGEN ET AL.

Examiner

Jeffrie R. Lund

Art Unit

1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12, 13, 15-18, 20, 22-34 and 36-69 is/are pending in the application.
- 4a) Of the above claim(s) 16, 17, 24-29, 37-50 and 65-69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 13, 15, 18, 20, 22, 23, 30-34, 36 and 51-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Priority

1. The newly amended claims are directed to material added to the parent application 09/096,728 as part of the CIP of the current application. Therefore, the priority date of the present claims is determined to be September 21, 2000.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10, 12, 13, 15, 18, 20, 22, 23, 30-32, 34, 36, 51, 52, 55-63, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann et al in view of Imatake et al, US Patent 5,759,424.

Hofmann et al teaches a processing chamber 10 that includes: a substrate support 24; a gas inlet; a gas exhaust; a gas energizer 12; and quartz wall with a plurality of recesses sized to reduce deposition in the recess.

Hofmann et al differs from the present invention in that Hofmann et al does not teach a process monitoring system or a mask covering part of the wall.

Imatake et al teaches a process monitoring system 3, 4 that includes a mask 14 (figure 4, column 14 lines 4-39).

The motivation for adding the process monitoring system is to monitor the process in the processing chamber. The motivation for adding a mask is to further prevent the deposition of material on the wall.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the process monitoring system and mask of Imatake et al to the apparatus of Hofmann et al.

4. Claims 33, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann et al.

Hofmann et al was discussed above.

Hofmann et al differs from the present invention in that Hofmann et al does not teach the recesses are inclined at an angle other than 90 degrees. The selection of the angle of inclination of the recesses is an optimization of a dimension, i.e. the angle of inclination. It was held in *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), by the Federal Circuit that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. (Also see MPEP 2144.04 (d)) Furthermore, it would have been obvious to one of ordinary skill in the art to optimize the angle of inclination to minimize the deposition or to ensure that the radiation be transmitted through the wall at the proper angle.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the angle of inclination of the recess of Hofmann et al.

Response to Arguments

5. Applicant's arguments with respect to claims 1-10, 12, 13, 15, 18, 20, 22, 23, 30-34, 36, and 51-64 have been considered but are moot in view of the new ground(s) of rejection.

6. In regard to the argument that:

Hofmann et al. may not be used to form an obviousness rejection over the claims because, as stated in 35 U.S.C. 103(a);

"Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Hofmann et al was published on October 17, 2000. The present application has a filing date of September 21, 2000. Hofmann et al is available under 35 U.S.C. 102(a).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art teaches the technological background of the invention.

Art Unit: 1763

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrie R. Lund whose telephone number is (571) 272-1437. The examiner can normally be reached on Monday-Thursday (6:30 am-6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Mills can be reached on (571) 272-1439. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeffrie R. Lund
Primary Examiner
Art Unit 1763

JRL
January 5, 2004